

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

LAVELLE MALONE,

Plaintiff,

vs.

CORA BALL,

Defendant.

)
)
)
)
)
)
)
)
)
)
)

1:07-cv-0101- SEB-JMS

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
REGARDING AFFIRMATIVE DEFENSE THAT PLAINTIFF FAILED TO EXHAUST
ADMINISTRATIVE REMEDIES**

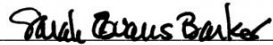
The Court has reviewed and considered the Magistrate Judge's Report and Recommendation (Docket No. 75) regarding the affirmative defense that Plaintiff failed to exhaust his administrative remedies before filing this action. No objections to the Report and Recommendation have been filed, and the time for filing such objections has expired.

The Court, having given de novo consideration to the issue presented pursuant to Title 28 U.S.C. § 636(b)(1)(B) and (C), and being duly advised in the premises, finds that the Magistrate Judge's Report and Recommendation is well reasoned and supported by the facts, as well as the law. Accordingly, the Court adopts the Magistrate Judge's Report and Recommendation in full and incorporates it by reference herein.

Accordingly, Defendant's affirmative defense of failure to exhaust administrative remedies is DENIED.

IT IS SO ORDERED.

Date: 06/11/2009


SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Copies to:

Thomas J. Grau
DREWRY SIMMONS VORNEHM, LLP
tgrau@drewrysimmons.com

Matthew James Schafer
DREWRY SIMMONS VORNEHM, LLP
mschafer@drewrysimmons.com

LAVELLE MALONE
984073
PENDLETON CORRECTIONAL
FACILITY
Inmate Mail/Parcels
4490 West Reformatory Road
PENDLETON, IN 46064